

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

DIXIE GRIFFITH, *et al.*,

Plaintiffs,

v.

Civil Action 2:17-cv-763

Judge George C. Smith

Magistrate Judge Chelsey M. Vascura

TRACTOR SUPPLY COMPANY, *et al.*,

Defendants.

REPORT AND RECOMMENDATION

Plaintiffs filed the Complaint in this matter on July 27, 2017, and Defendant Tractor Supply Company removed the action to this Court on August 29, 2017. Although service had been effected over the named defendant, Plaintiffs had not moved to amend the Complaint to substitute in the real name for the John Doe Defendant nor effected service upon John Doe as required by Federal Rule of Civil Procedure 4(m). On January 9, 2018, this Court issued an order directing Plaintiffs to show why the Court should not dismiss the John Doe Defendant and why the Court should allow an extension of time to effect service. Plaintiffs moved to extend the deadline established by the Court's January 9 Show Cause Order, and, on January 24, 2018, the Court issued a second Order directing Plaintiffs to identify the John Doe Defendant and effect service over that defendant on or before March 26, 2018.

To date, Plaintiffs have not identified or effected service upon the John Doe Defendant. It is therefore **RECOMMENDED** that this action be **DISMISSED WITHOUT PREJUDICE** against John Doe pursuant to Rule 4(m) for failure to timely effect service of process.

PROCEDURE ON OBJECTIONS

If any party objects to this Report and Recommendation, that party may, within fourteen (14) days of the date of this Report, file and serve on all parties written objections to those specific proposed findings or recommendations to which objection is made, together with supporting authority for the objection(s). A Judge of this Court shall make a *de novo* determination of those portions of the Report or specified proposed findings or recommendations to which objection is made. Upon proper objections, a Judge of this Court may accept, reject, or modify, in whole or in part, the findings or recommendations made herein, may receive further evidence or may recommit this matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1).

The parties are specifically advised that failure to object to the Report and Recommendation will result in a waiver of the right to have the District Judge review the Report and Recommendation *de novo*, and also operates as a waiver of the right to appeal the decision of the District Court adopting the Report and Recommendation. *See Thomas v. Arn*, 474 U.S. 140 (1985); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981).

/s/ Chelsey M. Vascura
CHELSEY M. VASCURA
UNITED STATES MAGISTRATE JUDGE